

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 144

## HOUSE BILL 2463

AN ACT

AMENDING SECTION 28-4847, ARIZONA REVISED STATUTES; RELATING TO TOWED MOTOR VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-4847, Arizona Revised Statutes, is amended to  
3 read:

4 28-4847. Insurance companies; release; fees; definition

5 A. On payment of all reasonable towing, storage and related fees, a  
6 towing company shall release a towed vehicle to a person designated in  
7 writing by an insurance company. The towing company shall release the  
8 vehicle during normal business hours on the day BOTH the request for release  
9 ~~is~~ AND PAYMENT ARE received by the towing company. The request for release  
10 shall be in writing and:

11 1. Shall indicate the name of the insurer as well as the name,  
12 address, ~~AND~~ telephone NUMBER and fax number of a representative of the  
13 insurer.

14 2. Shall include the name, ADDRESS AND TELEPHONE NUMBER OF THE OWNER,  
15 THE OWNER'S WRITTEN CONSENT FOR RELEASE OF THE VEHICLE AND THE NAME of the  
16 insured ~~and the name of the claimant, if applicable~~ DIFFERENT FROM THE OWNER.

17 3. Shall include the insurer's claim number and the name of the person  
18 to whom the insurer authorizes release of the vehicle.

19 4. Shall be signed by ~~an authorized representative of the insurer~~ THE  
20 OWNER EXCEPT AS PROVIDED IN PARAGRAPH 6 OF THIS SUBSECTION.

21 5. May be faxed, mailed or hand delivered to the towing company.

22 6. IF THE WRITTEN CONSENT OF THE OWNER IS NOT OBTAINED PURSUANT TO  
23 PARAGRAPH 2 OF THIS SUBSECTION, THE REQUEST FOR RELEASE SHALL INCLUDE A  
24 STATEMENT THAT THE INSURER HAS AUTHORIZATION FROM THE VEHICLE OWNER TO REMOVE  
25 THE VEHICLE FROM THE TOWING COMPANY'S STORAGE PREMISES.

26 7. SHALL INCLUDE A STATEMENT THAT THE OWNER HAS BEEN INFORMED THAT  
27 PURSUANT TO THIS SECTION THE TOWING COMPANY IS PRESUMPTIVELY NOT RESPONSIBLE  
28 FOR ANY LOSS OF PERSONAL PROPERTY OR DAMAGE TO THE VEHICLE THAT IS NOT  
29 DISCLOSED TO THE TOWING COMPANY BEFORE THE INSURER OR THE INSURER'S  
30 AUTHORIZED AGENT REMOVES THE VEHICLE FROM THE TOWING COMPANY'S STORAGE  
31 PREMISES. THE NOTICE SHALL ALSO INCLUDE A STATEMENT THAT THE OWNER MAY  
32 INSPECT THE VEHICLE AT THE TOWING COMPANY'S STORAGE PREMISES, MAY REMOVE ANY  
33 PERSONAL PROPERTY FROM THE VEHICLE AND MAY REPORT ANY DAMAGE TO THE VEHICLE  
34 TO THE TOWING COMPANY AT THE TIME OF INSPECTION.

35 B. IF THE VEHICLE OWNER DOES NOT INSPECT THE VEHICLE PURSUANT TO  
36 SUBSECTION A, PARAGRAPH 7 OF THIS SECTION PRIOR TO REMOVAL OF THE VEHICLE TO  
37 ANOTHER PREMISES, OR HAS INSPECTED THE VEHICLE AND HAS HAD THE OPPORTUNITY  
38 TO REMOVE PERSONAL PROPERTY IN THE VEHICLE, A REBUTTABLE PRESUMPTION SHALL  
39 BE CREATED THAT DAMAGE TO THE VEHICLE AND ANY LOSS OF PERSONAL PROPERTY IN  
40 THE VEHICLE OCCURRED WHILE THE VEHICLE WAS NOT IN THE CUSTODY OF THE TOWING  
41 COMPANY. THE PRESUMPTION MAY BE OVERCOME BY A PREPONDERANCE OF EVIDENCE TO  
42 THE CONTRARY.

43 ~~B.~~ C. EXCEPT FOR PRORATION FOR PARTIAL DAYS, a towing company shall  
44 not charge additional storage fees for a vehicle ~~that is not released after~~

1 a request FOR RELEASE AND PAYMENT has been made pursuant to subsection A OF  
2 THIS SECTION IF BOTH OF THE FOLLOWING APPLY:

3 1. THE INSURANCE COMPANY OR ITS REPRESENTATIVE PROVIDES THE WRITTEN  
4 REQUEST FOR RELEASE AS PRESCRIBED IN THIS SECTION.

5 2. THE INSURANCE COMPANY OR ITS REPRESENTATIVE REMOVES THE VEHICLE  
6 FROM THE TOWING COMPANY'S STORAGE PREMISES DURING NORMAL BUSINESS HOURS ON  
7 THE DAY THE TOWING COMPANY RECEIVES THE REQUEST FOR RELEASE.

8 C. D. This section does not create a cause of action or a right to  
9 bring an action against a towing company for releasing a motor vehicle TO A  
10 PERSON OTHER THAN THE OWNER IF THE WRITTEN AUTHORIZATION AS PRESCRIBED IN  
11 THIS SECTION IS PROVIDED TO THE TOWING COMPANY BY THE OWNER OR AN INSURANCE  
12 COMPANY.

13 E. FOR THE PURPOSES OF THIS SECTION "OWNER" HAS THE SAME MEANING AS  
14 DEFINED IN SECTION 28-101.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.

Passed the House March 15, 2004

Passed the Senate April 15, 2004

by the following vote: 54 Ayes,

by the following vote: 29 Ayes,

2 Nays, 4 Not Voting

0 Nays, 1 Not Voting

Jake Flake  
Speaker of the House

Ken Bennett  
President of the Senate

German L. Moore  
Chief Clerk of the House

Charmian Ballington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of April, 2004

at 2:30 o'clock p. M.

Jennifer Updegraff  
Secretary to the Governor

Approved this 19 day of

April, 2004,

at 2<sup>00</sup> o'clock p. M.

J. T. Nagel  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2004

at 3:05 o'clock P. M.

Janice K. Brewer  
Secretary of State